

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building
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Rockville, Maryland 20850
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(240) 777-6600

Case No. A-6639

PETITION OF MANUELA IOANID

OPINION OF THE BOARD

(Opinion Adopted November 20, 2019)
(Effective Date of Opinion: December 5, 2019)

Case No. A-6639 is an application for three variances necessary for construction related to an existing porch. The proposed enclosure of an existing porch requires a variance of 1.30 feet as it is within 5.70 feet of the side lot line. The required setback is seven (7) feet, in accordance with Section 59-4.4.9.B.2 of the Zoning Ordinance. The proposed porch enclosure also requires a variance of 7.70 feet as it is within 17.30 feet of the front lot line. The required setback is twenty-five (25) feet, in accordance with Section 59-4.4.9.B.2 of the Zoning Ordinance. Finally, the proposed construction of steps requires a variance of 0.90 feet as the steps are within 15.10 feet of the front lot line. The required setback is sixteen (16) feet, in accordance with Section 59-4.4.9.B.2 of the Zoning Ordinance.

The subject property is Lot 3, Block H, Lot 4 Crestview Subdivision, located at 4902 Crescent Street, Bethesda, Maryland, 20816, in the R-60 Zone.

As authorized by Section 59-7.3.2.A, the Board of Appeals held a hearing on the application on November 20, 2019. Petitioner Manuela Ioanid appeared *pro se* in support of the application. A confronting neighbor was also present, in support of the requested variances.

Decision of the Board: Requested variances **GRANTED**.

EVIDENCE PRESENTED

1. The subject property is a four-sided lot with arced front and rear lot lines, and side lot lines that converge towards the rear. The subject property has a total area of 3,318 square feet, just over half of the 6,000 square foot minimum lot size in the R-60 Zone.
2. The Statement of Justification ("Statement") describes the property as "narrow and ... narrowing toward the back of the property." See Exhibit 3. The Statement notes that "[b]ecause of the narrowness and because of the small size of the lot on which the house was built, the set back does not correspond to the requirements of the R-zone on all sides of the house: the set back of the steps of the front porch and one side of the mentioned porch are not in accordance with the requirements" of the R-60 Zone. See Exhibit 3.
3. The existing house was built in 1936, and the Petitioner purchased the home in 1999. The Statement indicates that the house was purchased in its current configuration, and that the Petitioner therefore is not responsible for the special circumstances attendant to the property.
4. The Statement indicates that the Petitioner is seeking to enclose the existing covered front porch with windows and a door to improve energy efficiency by providing a "climate buffer" when entering the house, as well as to increase safety and privacy. The Statement notes that the original entrance to the house "will remain the main entrance to the house," and states that "[m]any of the houses on Crescent Street have stoops/porches that have been adapted to the same purpose." The Petitioner attaches photographs of several of these houses to her Statement. See Exhibit 3.
5. The record includes five letters of support for the proposed construction from abutting and confronting property owners. See Exhibits 7(a)-(e).
6. At the hearing, the Petitioner testified that she and her husband purchased this property in 1999. She testified that the subject property is very small, approximately 3,300 square feet, and that the existing house was constructed in 1936. She stated that the setbacks do not correspond to the contemporary requirements.

The Petitioner testified that she is seeking to enclose the existing porch with windows and doors for privacy and safety reasons, and as a buffer from the environment, explaining that the front door opens directly into the living and dining room. The Petitioner testified that the existing porch structure will not be modified except to enclose it, and that the existing front door will remain the entrance to the house. She testified that she has discussed her plans with her neighbors and has their support, as evidenced by the presence of one (confronting) neighbor at the hearing. The Petitioner testified that lots of houses in the neighborhood have similarly enclosed front porches, and directed the Board's attention to the photographs in the record.

In response to a Board question inquiring about the width of the property, the Petitioner testified that lot narrows towards the rear, and that the side yard is between 5.7 feet and 6.4 feet wide in the area where the side lot line variance is requested.

FINDINGS OF THE BOARD

Based on the Petitioner's binding testimony and the evidence of record, the Board finds that the variances can be granted. The requested variances comply with the applicable standards and requirements set forth in Section 59-7.3.2.E as follows:

1. *Section 59-7.3.2.E.2.a - one or more of the following unusual or extraordinary situations or conditions exist:*

Section 59-7.3.2.E.2.a.i. - exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary conditions peculiar to a specific property;

Based upon Exhibits 3 and 4(a)-(b), the Board finds that the subject property, with its total area of 3,318 square feet, is exceptionally small and narrow, and significantly substandard for the R-60 Zone. In addition, the Board finds that the shape of the lot is such that it narrows from front to rear. The Board finds that these conditions combine to significantly limit the area available for construction without variance relief. Thus the Board finds that this element of the variance test is satisfied.

Section 59-7.3.2.E.2.a.v. - the proposed development substantially conforms with the established historic or traditional development pattern of a street or neighborhood;

Per the Statement and the testimony of the Petitioner, the Board finds that many of the homes on this street have stoops and porches that have been adapted in the manner proposed by the Petitioner, as shown in the photographs attached to Exhibit 3, and thus that the proposed porch enclosure and steps follow the traditional development pattern of this street or neighborhood.

3. *Section 59-7.3.2.E.2.b the special circumstances or conditions are not the result of actions by the applicant;*

The Board finds that the Petitioner is not responsible for the shape or size of the subject property, or for the development pattern in the neighborhood, in satisfaction of this element of the variance test.

4. *Section 59-7.3.2.E.2.c. the requested variance is the minimum necessary to overcome the practical difficulties that full compliance with this Chapter would impose due to the unusual or extraordinary situations or conditions on the property;*

The Board finds that the requested variances are the minimum necessary to allow the Petitioner to enclose the existing porch, and thus to overcome the constraints posed by the property's substandard size, width, and narrowing shape, as well as to comport

with the established development pattern in the neighborhood. The Board notes in this regard that the proposed location minimizes the side lot line encroachment since the property is wider in the front than it is in the rear.

5. *Section 59-7.3.2.E.2.d. the variance can be granted without substantial impairment to the intent and integrity of the general plan and the applicable master plan; and*

The Board finds that proposed porch enclosure and steps will continue the residential use of the property and are entirely consistent with the applicable master plan, and thus that this element of the variance test is satisfied.

6. *Section 59-7.3.2.E.e. granting the variance will not be adverse to the use and enjoyment of abutting or confronting properties.*

The Board finds that granting the requested variances would allow enclosure of an existing structure and that the resulting home would conform with the established development pattern in this neighborhood. Thus the Board finds that the grant of the requested variances will not be adverse to the use and enjoyment of abutting or confronting property owners. The Board notes, as further support for this finding, that the record contains letters of support for the proposed construction from five neighboring property owners, and no letters of opposition.

Accordingly, the requested variances described herein are GRANTED, subject to the following conditions:

1. The Petitioner shall be bound by the testimony and exhibits of record, to the extent that such evidence and representations are identified in the Board's Opinion granting the variance.
2. Construction must be completed according to plans entered in the record as Exhibit Nos. 4(a) and 5(a)-(d).

Therefore, based upon the foregoing, on a motion by John H. Pentecost, Chair, seconded by Katherine Freeman, with Bruce Goldensohn, Vice Chair, Jon W. Cook, and Mary Gonzales in agreement, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.



John H. Pentecost
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 5th day of December, 2019.


Barbara Jay
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book. Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.

See Section 59-7.3.2.G of the Zoning Ordinance regarding the twelve (12) month period within which the variance granted by the Board must be exercised.